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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554  
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In the Matter of )  
Federal-State Joint ) CC Docket No. 96-45  
Board on Universal )  
Service )

Reply Comments of General Communication, Inc.

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## SUMMARY

The Commission should replace the existing universal support mechanisms which are inconsistent with the pro-competitive, deregulatory policies of the Telecommunications Act of 1996 (1996 Act). In doing so, the Commission must establish a pro-competitive policy for all of America, not just urban America. Among other things, the Commission should ensure that competition is encourage in rural America, that contributions comply with the Act and that currently competitive, non-subsidized services are not turned into non-competitive subsidized services.

GCI agrees with the principles outlined by Congress and strongly agrees with the additional principal of "competitive neutrality" adopted by the Joint Board. GCI is somewhat concerned by the ultimate size of the funds, particularly since the high cost fund will be expanded and additional funds will be necessary to support schools, libraries and health care facilities.

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**Reply Comments of General Communication, Inc.**

General Communication, Inc. (GCI) hereby submits reply comments in response to the Common Carrier Bureau's Request for Comment (Request)<sup>1</sup> on the Federal-State Joint Board's Recommended Decision<sup>2</sup>. The Request invited comment on various policy questions regarding universal service as outlined in the Recommended Decision.

**Introduction**

The Commission should replace the existing universal support mechanisms which are inconsistent with the pro-competitive, deregulatory policies of the Telecommunications Act of 1996 (1996 Act). In doing so, the Commission must establish a pro-competitive policy for all of America, not just urban America. Among other things, the Commission

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<sup>1</sup>Common Carrier Bureau Seeks Comment on Universal Service Recommended Decision, CC Docket 96-45, DA 96-1891, released November 18, 1996.

<sup>2</sup>Recommended Decision, CC Docket 96-45, FCC 96J-3, released November 8, 1996.

should ensure that competition is encouraged in rural America, that contributions comply with the Act and that currently competitive, non-subsidized services are not turned into non-competitive subsidized services.

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**I. The Commission Must Not Allow Rural Local Exchanges Carriers to Thwart the Intent of Congress**

The 1996 Act provides "for a pro-competitive, deregulatory national policy".<sup>3</sup> In adopting the Act, Congress provided for competition to extend throughout the country. However, local exchange carriers (LECs) throughout their comments urge the Commission to adopt additional standards that competitive carriers would have to satisfy in order to be designated as an eligible telecommunications carrier under 214(e)(1) of the Communications Act.

214(e)(1) defines eligible telecommunications carriers as

(1) ELIGIBLE TELECOMMUNICATIONS CARRIERS. - A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254

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<sup>3</sup>Conference Report at 1.

and shall, throughout the service area for which designation is received -

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.<sup>4</sup>

Specifically, as examples, the LECs propose to include carrier of last resort responsibilities<sup>5</sup>, services quality standards<sup>6</sup>, and serving all areas on a facilities basis<sup>7</sup> as criteria to become an eligible telecommunications carrier. These proposals are contrary to the Act. As outlined above, Section 214(e)(1) sets out the criteria to become an eligible telecommunications carrier and Congress did not grant the Commission the ability to impose any other obligations. The requirements that are included in the statute were included at the request of the incumbent LECs. However, they now appear to think that these requirements are not burdensome enough to prevent entry and that

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<sup>4</sup>Section 213(e).

<sup>5</sup>Comments of GTE.

<sup>6</sup>Comments of Roseville Telephone Co. and GTE. As the Commission is well aware, the service standards of competitors are usually higher than that of the incumbent. By promoting competition, customers are given the free choice to determine which carrier fulfills their individual needs.

<sup>7</sup>Comments of Alltel.

competition may enter their service areas. The Commission should not take these arguments seriously.

Incumbent LECs, particularly rural telephone companies have several advantages in the 1996 Act.<sup>8</sup> Competitive carriers are disadvantaged by having to serve the study area of rural telephone companies. As pointed out by several commenters<sup>9</sup> in this proceeding, many rural telephone companies study areas encompass an entire state and contain many non-contiguous areas. Service areas for cellular and PCS providers differ dramatically from the LEC. However, GCI is willing to provide service to the entire study area of the rural telephone company as long as it must comply solely with the provision of service throughout the area on a combined facilities and resale basis as outlined in 214(e)(1)(A).<sup>10</sup>

## **II. The 1996 Act Does Not Provide Special Considerations for Rural Telephone Companies Who Face Competition**

Comments submitted by many of the rural telephone companies plead that the 1996 Act gives them special universal service consideration. They state that

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<sup>8</sup>As discussed below, these advantages were not instituted to prevent competition in rural America. They were enacted so that rural telephone companies would not have to comply with the requirements of 251 and 252 of the 1996 Act if a competitive carrier did not request interconnection.

<sup>9</sup>Comments of Cox Communications.

<sup>10</sup>Cox states that it would prefer serving only contiguous areas of a rural telephone company. If the Commission adopts this standard, it should be adopted for all rural telephone companies.

competitive carriers should not be allowed to receive support of any kind or that the support should either be based on proxies or on the costs of the competitive carrier. They do not support payments to competitive carriers based on the costs of the incumbent LEC. However, basing payments on the costs of the incumbent LEC implements the principle of competitive neutrality and constrains the excessive costs of the incumbent without causing severe financial impact on the incumbent. By paying support to the competitive carrier based on the incumbents costs, the over investment tendencies of the incumbent will be constrained by the marketplace over time. This will not happen overnight, but the process will produce viable LECs that choose to continue to serve rural America under this new pro-competitive system. Section 254 was not designed to keep the incumbent LEC whole, but designed to ensure service is available through competition and supported where needed.

Support must be collected and distributed in a competitively neutral manner. GCI supports a system that is portable and payable to the customer's provider of choice. The monies can either be based on proxies or on the incumbents actual cost at some specific point in time.<sup>11</sup>

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<sup>11</sup>As stated in the Recommended Decision, the Commission could use proxies for Tier 1 LECs and actual costs for other LECs for a transition period. However, the Joint Board's proposal that once the initial level of support was determined from the incumbent LECs actual costs, the link between costs and subsidy must be broken. The Commission cannot adopt the proposals of several LECs to allow them to update their



In order to promote efficiency and competition the link between the costs of the incumbent carrier and the amount of USF assistance must be broken. As GCI proposed in its comments and the Recommended Decision adopted, the Commission could start with the incumbent carriers reported costs and convert those costs to a per line credit. Each present USF recipient would determine the existing amount of support per access line. Under the new system, that amount would be credited to the consumer or alternatively could be paid directly to the carrier. Thus, on day one of the new system, the incumbent carrier with 100% of the customers would experience no change in support.

Other carriers would be eligible for the same support. Competition could develop with each competitor having access to the same potential subsidy.<sup>12</sup> The link between the costs of the incumbent carrier and the amount of the USF credit would end on the day the new USF system is implemented.<sup>13</sup> From that day forward, the forces of competition and the resulting efficiencies should be used to

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universal costs each year. This amounts to a request for the status quo, which is contrary to the intent of Congress and the desire to delink costs and subsidy.

<sup>12</sup>The Commission should not require new entrants to report costs to receive subsidy. This would continue the current system with its warped incentive structure. The relationship between costs and subsidy must be broken.

<sup>13</sup>The Commission should not bulk bill DEM for small telephone companies. Any bulk billing guarantees that the incumbent LEC will be made whole. This is inconsistent with a competitive marketplace.

drive the amount of the required subsidy downward.

Credits should be available anywhere for any carrier. They should not be limited to areas where "true" competition "actually" exists as proposed by incumbent LECs. Waiting until true competition actually exists will ensure administrative complexity whereby some carriers are determining USF under one system and other carriers are determining USF under an entirely different system. The Commission and the state commissions will be inundated with hundreds of regulatory proceedings to determine whether true competition exists. This will further delay benefits to the consumer and force both the incumbent LEC and all new entrants to spend time and money in numerous regulatory proceedings to make this determination over and over again. This is contrary to the intent of the 1996 Act.

In their comments several rural companies state that they are special. Evans Telephone Co., et al, states that the Act specifically provides advantages and protections to rural incumbent local exchange carriers not provided for potential competitors. Western Alliance states that Section 254 is a safety net for rural carriers. The Rural Telephone Coalition states that Congress had a special concern for preservation of universal service in rural areas. Harris, Skirvan and Associates on behalf of rural LECs state that USF support should not be made portable to other carriers.

Congress is concerned about service to rural America.

However, rural telephone companies were not exempted from competition or allowed to be kept whole. Rural telephone companies were given exemptions from complying with 251(c) of the Act because they pleaded that competition would not come to rural areas and that they would have to seek suspensions and modifications of the rules via complex regulatory proceedings until a potential competitor surfaced. Therefore, a compromise was reached to require interconnection only upon a bona fide request. This was fashioned after the equal access requirement.<sup>14</sup> Contrary to the assertions of the rural telephone companies, Congress did not intend to protect rural telephone companies from competition.<sup>15</sup>

### **III. United Utilities Suggestion to Make Non-subsidized Competitive Toll Areas, Subsidized, Non-Competitive Rural Telephone Service Areas Should Not Be Adopted**

United Utilities suggest that local calling areas must

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<sup>14</sup>Originally, the independent LECs opposed the equal access requirements.

<sup>15</sup>Also, Congress did not support abandonment of the principals outlined in 251(b). Congress allowed for suspensions and modifications of the requirements of 251(b) and (c) for telephone companies with less than 2% of the access lines in the country, i.e., everyone except the BOCs and GTE. These suspensions or modifications of the requirements are mainly to allow for more time to comply with the standards so as to avoid a significant adverse impact on users generally, to avoid imposing a requirement that is unduly economically burdensome or to avoid imposing a requirement that is technically infeasible and is consistent with the public interest. A situation might arise when the LEC is waiting for a manufacturer's upgrade of a switch to perform a function such as number portability. However, the Commission could impose alternative obligations such as RFC or DID in the interim.

reflect pertinent "community or interests" which would allow subscribers to call various places without making a toll call. This type of arrangement in Alaska would take a toll system which is currently not subsidized and competitive<sup>16</sup> and put it into a local system which is subsidized and not competitive. The Commission should not allow competitive areas to become non-competitive. The intent of the Act is to expand competition, not retract it. United Utilities has over 50 exchanges scattered throughout Alaska. Calls between most of those exchanges are toll calls.<sup>17</sup> United Utilities goal is to transform the non-subsidized interexchange service between those locations into subsidized local service.

The Commission should learn from recent history, the Alaska Joint Board<sup>18</sup> proceeding. In that proceeding the Commission terminated the subsidy received by Alascom to provide interexchange facilities and services to Alaska. Even though Alascom received subsidies over a twenty year

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<sup>16</sup>As discussed below, some areas in Alaska do not have facilities based competition.

<sup>17</sup>Even USTA in its comments state that rates must be comparable, but prices must continue to include distance sensitivity and usage factors.

<sup>18</sup>In re Application of Alascom, Inc., AT&T Corporation and Pacific Telecom, Inc. for Transfer of Control of Alascom, Inc. from Pacific Telecom, Inc. to AT&T Corporation, File Nos. W-P-C-7037, 6520, Order And Authorization, FCC No. 95-334 (released August 2, 1995); Integration of Rates and Services, 9 FCC Rcd 3023 (1994), adopting Final Recommended Decision, 9 FCC Rcd 2197 (1994).

period, Alascom did not upgrade the only earth stations installed in the late 70's and early 80's and citizens that live in the Alaska bush receive the worst long distance telephone service in the United States. It is difficult to talk to these locations, and sometimes impossible to send faxes in and out of these locations because of the antiquated technology. Due to the lack of competition or even the threat of competition, service to these locations is disastrous.

GCI has teamed with several companies to develop a bush earth station technology that is low cost and easily upgradeable that could replace this antiquated system. Scientific Atlanta and GCI have developed a small DAMA earth station which will improve service to the Alaska bush. GCI has fought for over 5 years to open bush Alaska to competitive service.<sup>19</sup> GCI has recently received from the Commission a partial waiver that will allow it to deploy and operate up to fifty DAMA earth stations in bush Alaska.<sup>20</sup> In response, Alascom has also begun to deploy new technology in the bush.

The Alaska situation for interexchange service should

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<sup>19</sup>GCI Petition for Rulemaking, RM-7246, filed January 10, 1990.

<sup>20</sup>Petition of General Communication, Inc. for a Partial Waiver of the Bush Earth Station Policy, File No. 122-SAT-WAIV-95, released January 30, 1996. GCI is allowed to construct and operate up to 50 earth stations for a period of two years.

remind the Commission that subsidies for competitive services are unnecessary and should not be permitted. The Commission went through a twelve year process to eliminate the subsidy Alascom claimed as its right and as necessary to provide service to remote locations in Alaska. Obviously, Alascom did not use the monies received over the years to improve service in these areas. They used the support in competitive areas to try and drive out competition.<sup>21</sup> Currently, interexchange services are provided in a competitive manner and not subsidized.<sup>22</sup> Services that are

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<sup>21</sup>GCI began service in Anchorage in 1982 after a multi-year regulatory battle with Alascom just to enter the market. Alascom said that GCI would never expand beyond Anchorage. As GCI expanded to each community, Alascom would state that GCI would not expand any further because the remaining markets were uneconomic. However, GCI continued to expand and now offers service to over 90% of the access lines in the state. As GCI expanded, Alascom would upgrade their facilities in each community from analog to digital and begin to offer customer service in locations where customer's had rarely seen an Alascom representative. The same claims about competitive expansion and low margin markets are now being made by the incumbent LECs. The same results can occur. Competition should not only be allowed, but wholeheartedly encouraged in rural areas so that consumers can benefit.

<sup>22</sup>Carriers should not be allowed to expand the subsidy system. United Utilities, Inc. (UUI) proposed to put interexchange services into the universal service fund. UUI proposed to provide "local service" to four remote locations using satellite technology. The four locations, three of which are sites of a multi-million dollar fish hatchery, are separated by up to 30 miles and would be connected, via satellite, through facilities in Anchorage, 40 miles away. UUI proposed to categorize all the equipment from each hatchery, over the satellite, and back to Anchorage as "local loop" eligible for USF support. The Audits and Accounting Division of the Commission has determined that the equipment outlined by UUI should be classified in Category 4.23, All Other Interexchange Circuit Equipment. See, Letter from Kenneth P. Moran, Chief, Audit and Accounting Division to

not subsidized in any way today should not be included in the core services.<sup>23</sup>

#### **IV. Only Single Line Residences Can Be Supported**

The 1996 Act defines universal service as an "evolving level of telecommunications services."<sup>24</sup> The 1996 Act states that

the definition of services that are supported by Federal universal services support mechanisms shall consider the extent to which such telecommunications services -

(A) are essential to education, public health or public safety;

(B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

(C) are being deployed in public telecommunications networks by telecommunications carriers; and,

(D) are consistent with the public interest,

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William K. Keane, dated July 15, 1994. UUI has asked the Division to reconsider its ruling. The Alaska Public Utilities Commission (APUC) determined that the service proposed by UUI would be interexchange service. The APUC also stated that the four locations do not constitute a community because they are not in the same location under the same government, they are separated by as much as 40 miles and that commercial enterprises do not constitute a community. The APUC further stated that universal service is "not void of limitations." They concurred with the general guidelines previously established in Alaska that subsidized telecommunications services should occur in communities with a minimum population of 25. See, Application of United Utilities, Inc., APUC Docket U-94-1, Order No. 8, dated September 11, 1995. Any definition for universal service must not be overly inclusive and should not include interexchange costs and other costs that should not be subsidized by USF.

<sup>23</sup>Of course, interexchange carriers pay access charges, which include carrier common line rates which include LEC subsidies. However, interexchange services are not subsidized today.

<sup>24</sup>Section 254(1).

convenience and necessity.<sup>25</sup>

The Commission must adopt a universal service system that support residential lines as outlined in the Recommended Decision. Businesses understand that telephone lines are a cost of doing business and therefore must be considered in any plan to open a business. In defining universal service, Congress stated that the criteria to determine if support should be paid would rest on the choices of residential customers. Second lines and business lines do not meet any of the relevant criteria including being subscribed to by a substantial majority of residential customers.

#### **V. Support for Schools and Libraries**

There is overwhelming support from many commenters<sup>26</sup> that inside wire and Internet should not receive universal service support since they are not telecommunications services. The Commission should not provide support for these services.

Also, the Commission should clarify that any carrier may provide services to schools and libraries and receive the offset against their contribution to universal service. Section 254(h) specifically states that all telecommunications carriers serving the area may provide service to the school and libraries.

Lastly, the Commission should state that the response to the request for proposal with the lowest price must be taken by the

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<sup>25</sup>Section 254(c).

<sup>26</sup>For example, see Comments of Alltel, ALTS, AT&T, Bell Atlantic, GTE, Nynex and Pacific Telesis.



school or library. Within the RFP process, the entity will outline its requirements, including any technical requirements. All bidders should be offering the requested services as outlined. There is no need to allow the entity to choose a different proposal than outlined in the RFP process. GCI agrees that there should be single round sealed bidding after notification by the school or library to all providers.

#### **VI. Contributions**

All telecommunications providers, including local, long distance, competitive access providers, cellular telephone companies, pay phone providers, enhanced service providers, should be required to contribute to support universal service. Support should be based on the carriers telecommunications revenues, net of what each carrier pays any other carrier. Otherwise some carriers would be double taxed.

GCI supports the creation of a universal service advisory board to appoint and oversee a neutral, third party administrator of the universal support mechanism.

#### **VII. Miscellaneous Issues**

Carriers should be allowed to recoup their contributions from end users in the manner they feel appropriate, including a surcharge on the end user customers. However, the Commission should not mandate such a requirement.

AMSC's suggestion that health care providers should receive support for the difference between mobile satellite service and terrestrial service is contrary to the Act. AMSC is required to

comply with the geographic rate averaging policy. This will ensure proper rates are charges. Also, support should not be paid for the terminals. They are not telecommunications services.

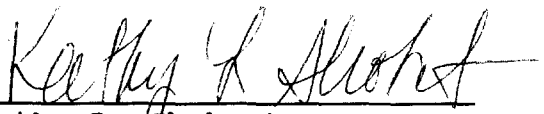
The Act imposes a comparable rate between rural and urban services. As USTA points out, comparable rate does not mean comparable price. The Commission must ensure that distance and usage factors are permitted.

#### **Conclusion**

Universal service support is dependent on a system that ensures distribution through a competitive neutral system for all carriers. The Commission must adopt a system as outlined in its Recommended Decision with the suggests outlined above.

Respectfully submitted,


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January 10, 1997

**STATEMENT OF VERIFICATION**

I have read the foregoing, and to the best of my knowledge, information and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed January 10, 1997.

  
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I, Kathy L. Shobert, do hereby certify that a copy of the foregoing Reply Comments was sent by first class United States mail, postage prepaid, this 10th day of January, 1997, to the following:

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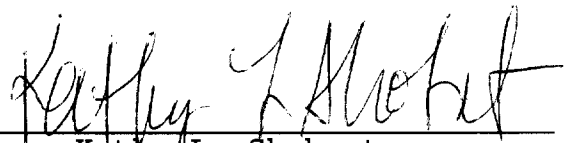
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